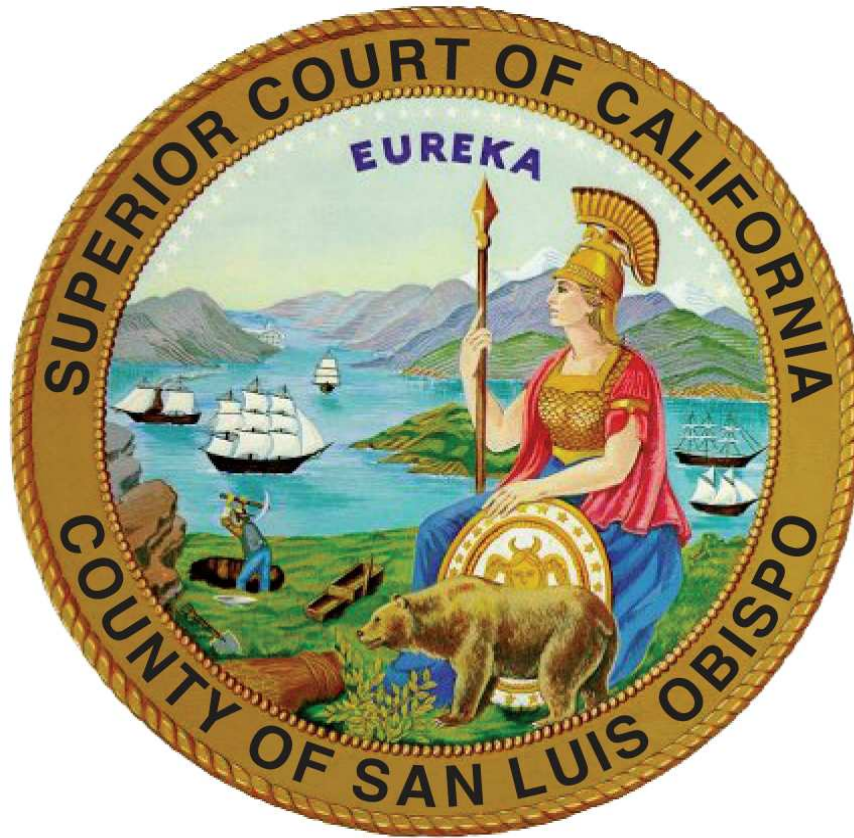


# San Luis Obispo County Grand Jury



## GRAND JURY HANDBOOK

(Policies & Procedures, Appendices and Penal Codes)

**Mailing Address:**

San Luis Obispo County Grand Jury  
P.O. Box 4910  
San Luis Obispo, CA 93403

**Contact Information:**


Telephone: (805) 781-5188  
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Web: [www.slocourts.net/grand\\_jury](http://www.slocourts.net/grand_jury)

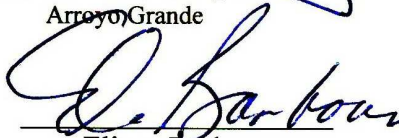



# JURY APPROVAL

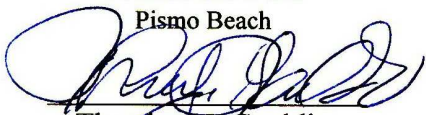
The 2009-2010 San Luis Obispo County Grand Jury has adopted the rules and procedures in this Handbook as a guide for the 2010-2011 Grand Jury. Each Grand Jury may modify its own rules and procedures throughout the year as long as they are in compliance with the applicable laws. Thus, it is expected that this document will change over time to reflect new “best practices” implemented by future juries.

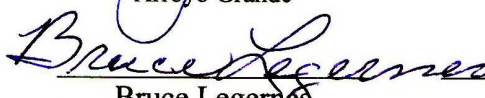
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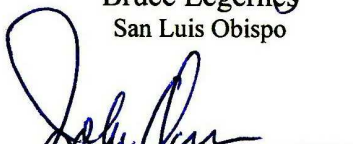
  
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Arroyo Grande

  
Elinor Barbour  
Templeton

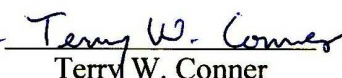
  
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Pismo Beach

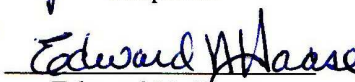
  
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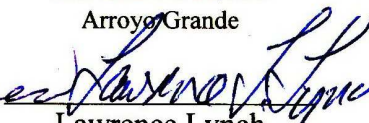
  
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John Odum  
Los Osos

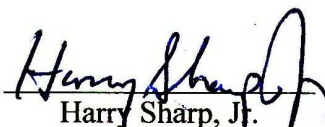
  
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Terry W. Conner  
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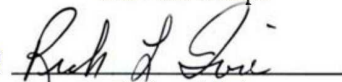
  
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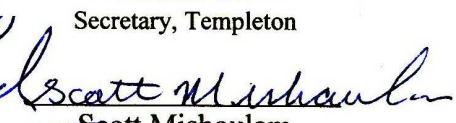
  
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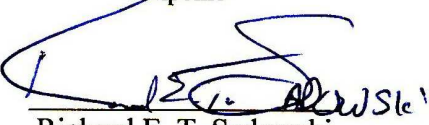
  
Harry Sharp, Jr.  
Pro-tem, San Luis Obispo


  
Sherri Danoff  
Avila Beach

  
Charles Edward Greenall  
San Luis Obispo

  
Richard Ivie  
Secretary, Templeton

  
Scott Mishoulam  
Mipomo

  
Richard E. T. Sadowski  
North Morro Bay

  
Kate Shurson  
Pismo Beach



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# I. INTRODUCTION

A Grand Jury is a body of the required number of persons (19 in San Luis Obispo County) drawn from the citizens of the county before a court of competent jurisdiction and sworn to inquire of public offenses committed or triable within the county. Each Grand Jury shall be charged and sworn to investigate or inquire into county matters of civil concern. [Penal Code Section (PC§) 888]

The primary function of the Grand Jury is to examine all aspects of local government, ensuring that the county, cities and publicly funded entities are being governed honestly and efficiently and that local government funds are being handled judiciously.

## **Oath**

Each member of the Grand Jury shall take the following oath:

“I do solemnly swear (affirm) that I will support the Constitution of the United States and of the State of California, and all laws made pursuant to and in conformity therewith, will diligently inquire into, and true presentment make, of all public offenses against the people of this state, committed or triable within this county, of which the Grand Jury shall have or can obtain legal evidence. Further, I will not disclose any evidence brought before the Grand Jury, nor anything which I or any other grand juror may say, nor the manner in which I or any other grand juror may have voted on any matter before the Grand Jury. I will keep the charge that may be given to me by the court.” (PC§911 & §924.1)

## **History**

Many historians trace the origin of the Grand Jury to the time of the Norman conquest of England. There is evidence that the courts of that time summoned a body of sworn neighbors to put before the court crimes which had come to their knowledge. During the reign of Henry II (1154-1189) the Assize of Clarendon (1166) established the “jury of presentment” of twelve “good and lawful men” assembled to reveal the names of those suspected of crimes. The connection to our present Grand Jury system is clear. It was also during the reign of Henry II that juries divided into two types: civil and criminal, with the development of each influencing the other.

The Massachusetts Bay Colony impaneled the first Grand Jury on our soil in 1635 to consider cases of murder, robbery and wife beating. By the end of the colonial period, the Grand Jury had become an important adjunct of government: "they proposed new laws, protested against abuses in government, and wielded tremendous authority in their power to determine who should and should not face trial."

Originally, the Constitution of the United States made no provision for a Grand Jury. But the Fifth Amendment ratified in 1791, guaranteed that "No person shall be held to answer to a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger...". The Fourteenth Amendment (1868) made it illegal to deprive any person of life, liberty or property without due process of law.

Early California grand juries investigated local prisons, conducted audits of county books, and pursued matters of community interest. Under statutes passed in 1880 the duties of the Grand Jury extended to investigation of county government. Only in seven other states do grand juries investigate county government beyond cases of alleged misconduct on the part of public officials.

The County of San Luis Obispo impanels a Grand Jury every year. Its term coincides with the county's fiscal year, July 1st-June 30th. Its jurisdiction extends to all government entities in the County except those under state and federal authority. Superior Court judges recommend candidates from among those who apply for service. A drawing of nineteen jurors, or fewer depending upon the number of carryovers and eleven alternates then ensues. A Superior Court judge swears in the jurors. The objective of this process is a Grand Jury of qualified citizens prepared to donate the time required to do a successful job.

The function of the Grand Jury is primarily that of a watchdog, ensuring that local government is performing with efficiency, impartiality, honesty and for the benefit of the community. The citizens of the County of San Luis Obispo have a real asset in the Grand Jury. It provides them important information on how their county and local governments are conducting the peoples' business. For the members of the jury the work is difficult and time-consuming, but in the end, quite satisfying.

## **“Civil” vs. “Criminal” Grand Jury**

There is no such thing in California law as a ‘civil’ Grand Jury. California has historically had only ‘regular’ grand juries and every county is required by the California Constitution to have one every year. The regular grand juries have always had two different functions: criminal and civil.

The criminal function is to hear evidence and determine whether, in the Grand Jury's view, that evidence is sufficient to warrant making an accused person stand trial. Typically the District Attorney's office presents the charges and the evidence to the Grand Jury. The District Attorney guides and advises the Grand Jury during its receipt of the evidence. The Grand Jury determines whether or not to issue an indictment. As discussed below, this indictment function has fallen into disuse in some, but not all, counties. In addition to standard criminal indictment activity, potentially included within the criminal function is the *obligation* of every regular Grand Jury to investigate "willful or corrupt misconduct in office of public officers of every description within the county." Whether or not a Grand Jury's indictment function has fallen into disuse, this is a mandatory obligation and obviously may uncover criminal activity.

The civil function is to investigate local government agencies and officials to form a view as to whether they are acting properly. If a Grand Jury determines they are not, it has various options. The most frequently used option is the presentation of a report outlining the Grand Jury's findings and recommendations in the matter. Such reports are public and frequently attract media attention. They must be responded to in specific ways by the agencies or elected officials reported upon. Except where an investigation is mandated by law, the Grand Jury has sole discretion to decide whether and what to investigate when performing its civil function.

Depending on the nature and severity of any wrongdoing a Grand Jury finds in its investigations, it can, in addition to releasing a report, request the District Attorney to pursue the matter criminally, or issue its own Accusation to start a court proceeding. [PC§901: Standards of Judicial Administration §17(a) Cal. Const. Art. 1, Sec. 23.<sup>3</sup>; PC§919(c) Generally; PC§925-933.6; PC§933.05; and PC§919(b)]

## II. TRAINING FOR INCOMING GRAND JURORS

Pursuant to Section 914 (b) of the California Penal Code, to assist the Grand Jury in the performance of its statutory duties regarding civil matters, the Presiding Judge of the court, in consultation with the Assistant District Attorney, the Chief Deputy County Counsel and one former grand juror (appointed by the court), shall ensure that the incoming Grand Jury receives training that addresses the following:

Subject	Possible Providers
Introductions	New Grand Jury
Handbook	Trainer/Foreperson
Introduction to County Government	County Administrator
General Training	California Grand Jurors Association
Report Writing	Trainer/Foreperson
Scope of Responsibilities and Statutory Authority	County Counsel/Assistant District Attorney
Child Welfare Services and Confidentiality	County Counsel & DSS Representative
Court Administration	Court Executive Officer & Jury Commissioner
Fiscal/Budget	Auditor/Controller

Incoming jurors as well as the first three alternates should attend all training sessions offered.

(Appendix H offers *recommendations on the content, delivery and timing of Grand Jury training.*)

All training costs are paid from the county Grand Jury annual budget. The California Grand Jury Association also offers training seminars for incoming jurors which detail how these laws affect the day-to-day workings of the jury.

Jurors are required to receive special confidentiality training before gaining access to Department of Social Services files dealing with children on their caseload. (Appendix B-9)

### III. FUNCTIONS OF THE GRAND JURY

#### ***A. CIVIL OVERSIGHT***

The investigative powers of the Grand Jury are specified in the California Penal Code. The primary function of the Grand Jury is to examine, inquire into and report on county government and the management within the county of:

- cities (PC§925a)
- joint power agencies (PC§925a)
- redevelopment agencies (PC§933.1)
- housing authorities (PC§933.1)
- special-purpose assessing or taxing districts (PC§933.5)
- local agency formation commissions (PC§933.5)
- non-profit corporations established by or operated on behalf of a public entity (PC§933.6)
- special legislative districts (PC§925)
- other districts created pursuant to state law (PC§925).

Factors that may assist the jury in selecting its fields of inquiry include, but are not limited to:

- citizen complaints (Section VI: Complaints and Inquiries)
- public interest as evidenced by reports in the news media
- reports of previous grand juries
- impressions gained by jurors during the inspection of facilities
- areas of local government that grand juries have not scrutinized for a number of years
- areas of interest to jurors

Any person may be asked to speak to the entire Grand Jury or to any of its committees for the purpose of providing information. . Jurors may need to subpoena witnesses in order to secure their testimony (see page 29 for further instruction on the use of subpoenas). Grand jurors are entitled to examine all public records (PC§921), as well as to obtain access at reasonable times to all public

facilities within the Grand Jury's jurisdiction (PC§925). A subpoena may be required by an entity in order to get copies of official documents.

If, at the conclusion of the examination, it is found that a particular government department or agency is operating in the best interest of the public, the Grand Jury may wish to write a report stating this fact. If, however, a department is found to be deficient, it is the responsibility of the Grand Jury to make written recommendations to correct the deficiencies, or it may, in its conclusion and findings, recommend improvements.

## ***B. PRISON/JAIL REVIEWS***

Jury functions also include mandatory annual inspections of, but not necessarily reports on, all public prisons within the county (California Men's Colony, County Jail, police department holding cells and Juvenile Hall). (Atascadero State Hospital has been ruled to be a hospital, not a prison and therefore does not fall within the purview of the Grand Jury.) According to Penal Code §919:

- Subsection (a) - The Grand Jury may inquire into the case of every person imprisoned in the jail of the county on a criminal charge and not indicted. (Note: Prior to conducting an investigation based on an inmate complaint, the jury must get a signed "Authorization for Release of Records" from the inmate. A sample of this document is contained in Appendix A-5.)
- Subsection (b) - The Grand Jury shall inquire into the condition and management of the public prisons within the county.
- Subsection (c) - The Grand Jury shall inquire into the willful or corrupt misconduct in office of public officers of every description within the county.

Guidelines for participating in prison/jail tours are contained in Appendix B-8. (Note: Because regular activities may need to be suspended to assure grand juror safety, advanced scheduling of these tours is highly recommended.)

## **C. ACCUSATION**

One of the duties of the Grand Jury is to inquire into any charges of willful or corrupt misconduct in office by public officials in the county (PC§ 919c & §922).

When public officials commit a crime in connection with the operation of their offices, or willfully or corruptly fail or refuse to carry out the duty prescribed by law or any charter under which they hold office, or their conduct is below the standard of decency rightfully expected of a public official, they may be removed from office as a result of accusation (GC§ 3060, Notes of Decisions). (Appendix I provides a portion of a County Counsel opinion provided to the 2008-2009 Grand Jury that further defines willful or corrupt misconduct.)

For the purpose of the accusation, ‘misconduct’ is broadly interpreted. It may be based on “malfeasance, misfeasance or nonfeasance,”<sup>1</sup> which would include willful or corrupt misconduct in office. The Grand Jury would make its determination based on the evidence. Although the Grand Jury can admit hearsay evidence in confidence, such evidence would not be admissible in any trial, which might follow. Hearsay evidence should therefore be avoided. Its use in bringing an accusation could provide the basis for a legal challenge to the Grand Jury’s action.

Prior to undertaking an accusation proceeding, the Grand Jury should consult closely with the District Attorney regarding current law and on how to conduct the proceedings. Testimony must be taken under oath and recorded by a court reporter and at least twelve jurors who were present for all the evidence and testimony must vote affirmatively. The accusation must be in writing (GC§ 3060), must state the offense charged in ordinary and concise language (GC§ 3061), and must be delivered by the foreperson of the Grand Jury to the District Attorney of the county, unless he or she is the accused (GC§ 3062). The District Attorney then has the accusation served upon the defendant with notice to appear in Superior Court, and after service upon the defendant, files the original accusation with the Clerk of the Court. (GC§ 3063)

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<sup>1</sup> *Malfeasance*: the commission of an unlawful act by a public official; *misfeasance*: the improper performance of a lawful act that violates the rights of other; *nonfeasance*: nonperformance of an act which ought to be performed, failure to perform a required duty, or neglect of duty.

## **IV. CONFIDENTIALITY**

### ***A. ADMONITION OF WITNESSES***

The Grand Jury has the authority and responsibility to admonish witnesses to refrain from revealing questions asked or responses given, or any other matters concerning the nature of the Grand Jury's investigation, which such witnesses may have learned during a Grand Jury appearance.

When a Grand Jury report is made public, or when directed by the court, this restriction no longer applies. Violation of such an admonition by a Grand Jury witness is punishable as contempt of court. The admonishment should be administered in written form. (Appendices B-4 & B5)

### ***B. SECRECY AND RETENTION OF GRAND JURY RECORDS***

Grand Jury evidence, deliberations and records are considered secret, except as noted in Section A above and as follows: final reports must be submitted to the Superior Court and filed with the County Clerk. Reports may be filed with the clerks of the public agencies addressed (PC§933a). The Grand Jury retains a copy of the final report.

Responses to final reports must be submitted to the Superior Court, and filed with the County Clerk, as well as the clerk of the public agency responding to the report. In addition we request that a copy of the response be sent to the Grand Jury. A copy of the response shall be placed on file with the applicable final report by the currently impaneled Grand Jury, where it shall be maintained for a minimum of five years (PC§933c).

Raw evidentiary materials may not be disclosed [McClatchy v. Superior Court (1988) 44 Cal 3d 1162 at 1167, 1180-1182], however, such evidence in support of assertions made in final reports, especially where a report comments upon any person or official who has not been indicted by such



Grand Jury, should be retained, as such comments shall not be deemed to be privileged (PC§930), and as members of the Grand Jury may need supporting evidence in the event of future legal action.

Upon discharge, a Grand Jury may place selected records in secure storage at the Grand Jury facility or in the custody of the Presiding Judge.

Except for information or evidence which relates to a criminal investigation, or which could form a part (or all) of the basis for issuance of an indictment, transcripts of testimony reported during any session of the Grand Jury shall be made available to the succeeding Grand Jury upon its request (PC§ 924.4).

Members of the Grand Jury may not willfully disclose any evidence offered before the Grand Jury, or anything which they have said, or other members have said, or how they have voted or how other grand jurors have voted (PC§924.1).

Limited disclosures may be made under circumstances specifically outlined in the Penal Code. Transcripts of testimony in non-criminal matters must be provided to the succeeding Grand Jury upon request (PC§924.4), and the courts may require testimony of members of the Grand Jury regarding testimony given before the Grand Jury (PC§924.2).

### ***C. COMPUTER CONFIDENTIALITY***

Understanding that grand jurors may need to utilize their home computers in order to do Grand Jury business, the following suggested guidelines should be applied:

- Virus and firewall protection shall be utilized.
- Computer password(s) should be utilized.
- File password(s) should be utilized.
- Files transported to and from the Grand Jury office should be password protected.

As email is an effective method of communication, the following guidelines should be applied:

- The email address should be tested. An initial email should be sent with a request for a return/response email. This will verify that the intended individual received the email message.
- Emails should **NOT** be sent to a “generic” address such as “accounting@xyz.gov,” “president@xyz.com,” or “director@agency.ca.gov”.
- Printed copies of all emails relating to the substantive issues of an investigation should be placed in the case file.
- For all outgoing emails, at least one other juror shall be copied. The committee chair should also be copied.
- Emails sent “TO:” are meant as a request for action.
- Emails sent “CC:” are meant for information only.

#### ***D. GRAND JURY TELEPHONE PROTOCOL***

Jurors should refrain from answering incoming calls at the Grand Jury office. Technically, the Grand Jury is always in session, so an individual juror should not talk to a member of the public (PC§916). In accordance with this Handbook, the Grand Jury responds only to written complaints. The office answering machine provides an opportunity for any citizen to request a complaint form.

Conference calls can be organized using the County protocol contained in Appendix B-7. If calls are recorded all persons participating in the call must be notified.

## **V. OPERATING PROCEDURES**

### ***A. GENERAL SESSIONS***

#### **1. Rules of Proceedings**

To permit the orderly conduct of business, each Grand Jury shall establish its own rules of proceedings. This shall be by the concurrence of twelve or more members of a Grand Jury with nineteen members (PC§916 & 940).

Meetings should be conducted according to the rules of procedures included in this Handbook, the Penal Code, and other legal opinions from the court, County Counsel, District Attorney and Attorney General (PC§934a). The secretary will maintain the rules of proceedings recorded in the minutes including new decisions and amendments. The foreperson and designated jurors will incorporate into the Handbook all changes in the rules and will furnish a completed Handbook to the incoming jury.

#### **2. Meetings**

A quorum for business meetings is twelve members. The foreperson shall preserve order, may speak on points of order, and shall decide all questions of order subject to appeal. A successful appeal requires a simple majority of jurors present. Jurors are entitled to speak on any subject under discussion. After a motion is seconded (if not seconded, the motion does not continue), there is a call for discussion.

While reasonable informality in the conduct of the meetings is appropriate, Robert's Rules of Order shall govern proceedings of the meetings of the Grand Jury except as provided below.

Votes of the Grand Jury on approval of reports and on vacation of complaints shall require an affirmative vote of 12 members. On all other matters, Robert's Rules of Order shall govern. Voting is normally by a show of hands or, if asked by the foreperson, an "aye." Any juror who doubts the decision on a vote may call for a recount or a roll call.

Committee chairs typically provide weekly status reports to the full Grand Jury on cases in progress. All jurors are encouraged to speak on any applicable subject, but the foreperson will ensure that the discussion is orderly, courteous, and that each member has a turn to speak without undue interruptions.

The foreperson may rule any motion or statement out of order if he/she finds the motion irrelevant, untimely, dilatory, absurd, or frivolous.

No matter falling within the jurisdiction of a committee shall normally be considered for action by the Grand Jury until it has been referred to the appropriate committee for consideration. Exceptions require the consent of the full Grand Jury. Matters referred to committee must be passed by a simple majority of all the members of the committee before coming back to the full Grand Jury. Should there be a tie vote in committee, the foreperson may be invited to facilitate a resolution within the committee. Alternatively, or in the event the foreperson is unable to facilitate a resolution, the matter may be brought to the full Grand Jury for resolution by a vote of the members.

The Grand Jury shall establish regular meetings. Special meetings should be announced at the previous meeting, but in an emergency may be called by the foreperson. A meeting becomes an official meeting if a quorum is present.

## ***B. DUTIES OF JURORS***

### **1. Members:**

- become familiar with and understand laws and procedures relating to Grand Jury functions and powers,
- have an understanding of the administrative process in order to discharge their investigative responsibilities,
- elect the officers of the Grand Jury, except the foreperson, and recommend changes in rules of proceedings,
- make all Grand Jury decisions as a body,
- serve on committees,

- write reports, and
- conduct interviews.

The residents of the county expect jurors to maintain the highest ethical standards and a commitment to the work of the Grand Jury and to its collegial nature. Jurors should take problems that may arise within the jury to the foreperson for informal resolution whenever possible. Should it become necessary, the foreperson may consult the Presiding Judge. The Presiding Judge may remove a juror for just cause. (Part I - Section XIII)

## 2. Foreperson:

The foreperson is appointed by the Court (PC§912). The Court also appoints a replacement if the original foreperson is excused or discharged before the Grand Jury is dismissed. The foreperson:

- acts as the sole spokesperson for the Grand Jury,
- presides at all general session meetings of the Grand Jury and prepares an agenda for each meeting (C. 1, General Procedures),
- facilitates committee membership,
- facilitates the execution of all Grand Jury decisions and actions,
- consults with the Presiding Judge and reports to the Grand Jury
- may administer oaths (PC§939.4), and
- prepares a smooth transition to the following year's Grand Jury by providing relevant documentation to the incoming foreperson.

(see Foreperson Diagram in Appendix E-2)

## 3. Foreperson Pro Tempore:

The foreperson pro tempore is elected by the Grand Jury by the end of juror training. The foreperson pro tem:

- performs all regular duties of Grand Jury member,
- assumes all powers and duties of the foreperson during his/her absence or disqualification (PC§916.1),
- assists in the review and updating of the jury Handbook,
- assists in the editing, publication and distribution of the Final Report,
- as necessary, provides assistance to the foreperson, and

- in the absence of the foreperson may administer oaths.
4. Jury Secretary: The jury secretary is elected by the Grand Jury at the end of juror training. The jury secretary:
- performs all regular duties of Grand Jury member,
  - prepares minutes of general session meetings to include attendance, time the meeting convenes and adjourns; summary of committee reports, and a record of all motions, votes and decisions, and in consultation with the Foreperson may also perform some or all of the following duties.
  - maintains calendar of interviews, tours. and other scheduled jury activities,
  - ensures that incoming mail is properly assigned with copies to the appropriate committees,
  - ensures that letters to the Grand Jury are acknowledged, and
  - processes all citizen complaints providing copies to jurors upon request.
5. The Grand Jury may elect other officers as necessary (typically committee chairs and committee secretaries). Additional responsibilities such as parliamentarian, syntax reviewer(s), Information Technology liaison, Web site coordinator, librarian, and events coordinator may also be elected or appointed.

## ***C. GENERAL PROCEDURES***

### **1. Standard Agenda for a General Session:**

- Call to order
- Approval of minutes
- Secretary's report
- Foreperson's report
- Committee reports
- Unfinished business
- New Business (non-agendized items that can't be deferred to the next agenda)
- Agenda items for next meeting
- Round table (Optional)

- Adjourn

## 2. Attendance:

Jurors have agreed to devote whatever time is necessary to accomplish Grand Jury duties.

Attendance for each juror must be regular and punctual. A juror who must be absent from a meeting of the Grand Jury must notify the foreperson, secretary or committee chair as soon as possible.

Known absences (i.e. planned vacations) should be entered on the Grand Jury wall calendar. Jury training in July and the final report wrap-up in May are particularly critical periods. Jurors are urged to avoid absences during those times. Holidays will be designated by a vote of the Grand Jury.

Jurors may be excused when unavoidable and unexpected pressing personal business or family matters arise. The foreperson will discuss absences with any juror whose attendance does not appear adequate for a fair contribution to the work of the Grand Jury. If a juror misses two unexcused consecutive meetings, the foreperson may inform the Presiding Judge by letter of the juror's attendance record. The foreperson may also include in this letter a recommendation regarding the juror's continuing service.

## 3. Allowances and Mileage:

On average jurors should expect to spend 20 hours a week on Grand Jury business. Grand jurors receive a stipend of fifteen dollars (\$15) for every day the committees meet and for every day the Grand Jury meets in general session. The jury will establish meeting days and times. The committees typically meet one day and the general session is held on another. Jurors also receive the allowance for other days when specific field trips or committee meetings are scheduled, or to conduct authorized committee business.

Examples of authorized business include: investigating a complaint with a site visit to a prison to interview a prisoner, a committee interview of a witness unable to meet with the committee on a regular meeting day, or any meeting called by the foreperson or committee chair for good and sufficient reason on other than a meeting day. Time spent working at home, doing individual research, or writing reports will not be reimbursed. Jurors will receive a 1099 tax form at year's end.

A juror is entitled to reimbursement for miles driven to and from the Grand Jury offices for regular meetings or other assigned tasks. In the case of carpools on field trips the carpool driver may claim reimbursement for both the home-to-office mileage and the mileage entailed in the field trip. Those who ride with him/her from the office to the site of the field trip may claim only the regular home-to-office mileage. Mileage reimbursement is not taxable and is reimbursed at the current IRS rate.

Any request for reimbursement of out-of-pocket expense must be pre-approved by the jury foreperson.

Jurors initial the attendance sheet when attending regular committee and general session meetings. That initial carries with it automatic reimbursement of stipend and of the roundtrip home-to-office mileage. Jurors submit a separate non-standard mileage form with which to claim additional allowance and mileage. The form needs the foreperson's signature prior to being submitted to the Administrative Assistant. The non-standard mileage form is submitted to the county Administration Office on a monthly basis. Juror submissions which miss the end-of-month cutoff will be held and submitted the following month.

#### 4. Incoming Mail:

The administrative assistant (AA) opens and date stamps all incoming mail (on the back of the document) and places any mail personally addressed to a juror in that juror's file. Mail not personally addressed is given to the foreperson for handling.

#### 5. Outgoing Mail:

Committee chairs or secretaries submit drafts of all outgoing mail to the AA for finalizing. All external correspondence (other than emails sent as part of an investigation) is signed by the foreperson. The respective committees may retain copies for their files. Copies are maintained in the chronological file and the appropriate files of the foreperson and the AA.



## ***D. COMMITTEES***

### **1. Formation of Committees:**

Each Grand Jury establishes committees in accordance with the manner in which it wishes to divide investigations. The foreperson facilitates the formation of committees. Normally each juror serves on two committees. The foreperson normally does not serve on any committees. Each committee elects a chair and a committee secretary.

### **2. Guidelines for Committees:**

- Customarily Grand Juries in SLO County have set aside one day a week for committee meetings and another day for meetings of the full Grand Jury. Grand Juries are free to change that schedule as may be appropriate to their work schedules, however they need to coordinate the schedule with the AA.
- At the general sessions of the Grand Jury, each committee chair reports on the work of the committee, introduces committee recommendations for Grand Jury action and announces scheduled interviews as well as other planned activities.
- The chair calls committee meetings as necessary. Any juror may attend any committee meeting.
- All inquiries, inspections and interviews, in person or by telephone, must be conducted in groups of two or more jurors assigned by the committee (PC§916). Interviews should be conducted at the Grand Jury office whenever possible to facilitate recording of the proceedings. An individual juror may, however, set up an appointment, request documents or confirm facts. A visit or inspection may be unannounced.
- An initial contact for information gathering may be by telephone, email or informal meeting. Be aware that voice-mail messages may breach confidentiality. Some questions to be considered:
  - Should the department head be notified?
  - Should the person be advised in advance about confidentiality?
  - Where should the initial interview be held?
  - Should the person be admonished/sworn?
  - Is there a time that is minimally disruptive for this person's work schedule?
  - Is there any need to display grand jurors' badges?

- An Action Plan shall be prepared for each investigation proposed by a committee (Appendix B-2). All action plans must be approved by the full Grand Jury.
- Until an Action Plan is approved by the full Grand Jury, all committee activity which is to occur outside the committee, including possible interviews, must be pre-approved by the foreperson. Once the Action Plan is approved by the full Grand Jury, the committee is responsible for all activities involving the Action Plan.
- Committees should maintain complete complaint and case files for every investigation. The files should contain records of all visits, inspections, interviews and other sources of information pertaining to the subject.
- Committee chairs and committee secretaries are responsible for maintaining the integrity of complaint and case files. It is particularly important that jurors remove originals only for copying, and that they immediately replace them in the files.
- Committee secretaries maintain minutes and distribute them for review by the full Grand Jury. Copies of committee minutes are filed in binders provided for that purpose.
- All committee reports including findings and recommendations must be presented to the entire Grand Jury for approval.
- Committees shall operate under the same rules and procedures as the Grand Jury.
- A committee quorum is a simple majority of the committee membership.
- Approval of committee business is also by simple majority.

## ***E. SUPPORT SERVICES***

At the Grand Jury office, jurors have access to a variety of office equipment. Grand jurors will receive training on all office equipment at the beginning of their term.

The county maintains this equipment and any equipment failures should be reported to the administrative assistant. New and replacement equipment is funded by the Grand Jury's county budget. Available equipment includes:

- computers (Microsoft Windows operating system, Microsoft Office software and full Internet access)

- printers (laser and color)
- document scanners
- fax machine
- copier
- recording equipment (portable and fixed)
- document date stamp machine
- electric three hole punch

Portable electronic devices are available for juror use on a “check out” basis. Currently available equipment includes portable digital voice recorders and laptop computers. Jurors are free to use any of this equipment, but should be considerate of the needs of others regarding use of the equipment and must sign the Check Out completing all requested information.

Large orders of photocopies are processed by the county’s reproduction office. Because of the confidential nature of Grand Jury reports, a jury member delivers the report to the printer and requests that the completed order be kept locked inside the copy room until it is picked up.

A part-time administrative assistant (AA) is assigned to the Grand Jury office. The duties of the AA may include office management, word processing and general clerical assistance to members of the Grand Jury. The foreperson should assure that the county employee has been formally admonished regarding the rules of confidentiality, has received a written copy of the admonishment and understands it (Appendix E-6). Jurors should fill out a work order when requesting clerical assistance. The jury may be asked to submit an evaluation of the administrative assistant’s performance at the end of its term

## ***F. PARKING PRIVILEGES***

Permit parking in the Palm Street garage is limited to when Court is in session, i.e. Monday through Friday during normal business hours. Jury parking permits should be displayed whenever parking in the garage or in the Grand Jury parking lot.

## ***G. THE GRAND JURY BUDGET***

The foreperson monitors the Grand Jury's budget and reports quarterly on its status to the full jury. The foreperson, along with county administration, establishes the budget for the next Grand Jury. Upon consensus of the jury, the foreperson may petition for budget changes, additional equipment, etc. The County Administrator's Office (CAO) assigns a budget analyst to assist the Grand Jury.

## ***H. END OF GRAND JURY'S TERM***

Upon completion of the term, all members of the Grand Jury shall

- complete sign and date an Exit Form (Appendix E-3).
- complete and forward the jury service questionnaire to Jury Services Office
- return the Handbook to the foreperson,
- destroy all emails, electronic files, and personal notes relating to any confidential Grand Jury study or inquiry,
- return to the office any reference materials or unused supplies,
- return all Grand Jury door and file keys, thumb drives, parking permits and borrowed equipment,
- sign and date the Exit Form,
- certify by signature that the juror will keep secret all internal deliberations of the Grand Jury, including how any juror voted or what any juror said during those deliberations, and
- Complete and submit a "leaving office" Form 700 (Statement of Economic Interests).

## ***I. CARRYOVERS***

Grand Jurors are currently limited to two consecutive terms of service. Jurors may apply for a position on the following year's jury by submitting an application to the Presiding Judge.

## **VI. INVESTIGATIONS**

### ***A. ORIGIN***

Anyone may file a complaint with the Grand Jury or request that it study an issue. Complaints and requests must be in writing. Complainants should use the forms provided by the Grand Jury for this purpose (Appendix A-1), but this is not required. It should, however, be Grand Jury policy to **NOT** respond to anonymous complaints. As the Grand Jury facility is not open to the public, the administrative assistant will mail a complaint form to anyone who requests one in writing or by telephone. The complaint form is also available on the Grand Jury's web site: [www.slocourts.net](http://www.slocourts.net). Grand Jury members may also initiate investigations.

### ***B. COMPLAINTS***

The Foreperson or other officer or Grand Juror designated by the Foreperson, working with the administrative assistant, numbers each new citizen complaint on receipt and makes a file folder for the original. A copy of the complete complaint is provided to the assigned committee. The administrative assistant logs the complaint under an appropriate title assigned by the Foreperson or his/her designee and the administrative assistant prepares an acknowledgement letter for signature by the foreperson (Appendix A-3).

The Foreperson or his/her designee introduces the complaint to the full Grand Jury at the next general session where it is reviewed and, if accepted, assigned to an appropriate committee. The committee chair, with the approval of the committee, is responsible for initiating any correspondence regarding the complaint by submitting drafts to the foreperson for signature. The administrative assistant ensures that the appropriate files contain copies of any letters sent.

## ***C. VACATING COMPLAINTS***

The Grand Jury is not required by law to accept or act on any complaint or request and it may refuse to act on a complaint for any reason, e.g., if the complaint:

- clearly lacks merit,
- appears to be politically motivated,
- involves issues in a current election campaign,
- comes from a complainant who should seek legal advice or recourse through other channels,
- is the subject of litigation that is the same as the complaint,
- has already been resolved through other channels, or by a previous Grand Jury with no new information presented,
- addresses matters over which the Grand Jury has no jurisdiction,
- furnishes incomplete information and the jury cannot obtain sufficient information due to an anonymous submittal, or
- has been submitted to other agencies/organizations (i.e.: a judge, the Board of Supervisors, prison appeals, etc.).

The complainant should be notified in writing if the complaint falls outside of the Grand Jury's jurisdiction (Appendix A-4). Otherwise, no written communication beyond the initial letter of acknowledgement is sent. Twelve votes are required to vacate a complaint.

## ***D. COMMITTEE PROCESS***

The assigned committee reviews the complaint. If the committee decides that no further action is warranted, the committee chair recommends to the full Grand Jury that the complaint be vacated, giving the reasons for the committee's decision. The full Grand Jury votes on the recommendation.

If the committee agrees to conduct an investigation, it appoints a subcommittee to carry out the investigation. It is strongly suggested that this subcommittee consist of at least three members and that all of them be actively engaged in all aspects of the investigation. If at all possible, the

subcommittee members should have different strengths and abilities, including but not limited to organizational, investigative and writing abilities. This subcommittee then prepares an Investigation Action Plan (Appendix B-2), that it submits to the full Grand Jury for approval. A wide variety of activities may be undertaken as part of the investigation (Appendix B-1).

The subcommittee should fully document all activities undertaken as part of an investigation, including telephone calls, interviews, subpoenas, etc. A checklist may be used to record activities (Appendix B-3). Copies of all documentation shall be kept in the investigation case files. **These files are not to be taken out of the Grand Jury office** (copies of file documents may be taken out of the office).

To achieve objectivity, key persons from all sides of an issue must be interviewed. Grand Jurors should also note the requirement of Penal Code Section 933.05(e) concerning a meeting with the subject of an investigation. All interviews for information that may subsequently be used in a report must be conducted by at least two members of the Grand Jury [PC§916] and shall be recorded. When the subcommittee decides that an inquiry is complete, it will review the matter with the committee to decide if a report should be written.

The format and process for preparing a report is described in Part I - Section VII.

## ***E. THE USE OF QUESTIONNAIRES***

A questionnaire, specific in scope and limited in distribution, may be appropriate if used as one of the tools in an inquiry. It is not permissible to send this type of questionnaire indiscriminately to all agency employees to determine whether improper activities exist. Any final report containing a summary of anonymous responses to a questionnaire must indicate that the Grand Jury conducted an independent inquiry with respect to those responses (People v. Superior Court (1975) 13 Cal 3d 430). Should questions arise about the use of a questionnaire, the Grand Jury should consult County Counsel.

## ***F. CONDUCTING AN INTERVIEW***

The following are recommended steps to be taken when organizing and conducting an interview:

- Determine who should be interviewed and in what order. When scheduling an interview by telephone, inform the prospective interviewee of the expected length of interview, that he/she is to appear alone (or may bring others), and what documents to bring. Interviewees should also be advised to refrain from revealing any matters concerning the existence and/or nature of the Grand Jury's investigation
- Since interviews are open to all interested Jurors, the date for all scheduled interviews should be placed on the Grand Jury calendar as soon as possible.
- Assign one juror to be the lead interviewer with responsibility for putting these questions to the witness.
- Assign a lead note taker to assure an accurate record of the interview is in written format.
- Prepare a list of questions in advance of the interview and review the questions in committee. Questions are the questions of the committee and it should approve them except under the most exceptional circumstances. A copy of the questions should be given to all jurors attending the interview. The interviewee may be provided with a copy of the questions, at the discretion of the lead interviewer. Jurors can ask additional follow-up questions at the end of the interview.
- Use the interview outline in Appendix B-6 whenever possible.
- Interviews, wherever conducted, shall be recorded to ensure that an accurate record will be available for future use by the Grand Jurors.
- To insure secrecy and confidentiality, it is required that all interviewees be admonished. Jurors need to determine on a case by case basis whether the circumstances of the interview make it advisable to also put the witness under oath. The admonition should be witnessed by two jurors and a copy is provided for the witness. The admonition/oath is signed by the witness and witnessed by two jurors and a copy is provided to the witness
- Obtain a business card whenever possible. Otherwise, record the interviewee's name, full title, address, telephone and e-mail address.
- When there are multiple interviewees, be sure that speakers identify themselves when they speak.



- Obtain clear answers. If answer is not clear or does not adequately respond to the question, rephrase the question.
- Permit the witness to respond without interruption, keeping in mind the foregoing guidelines.
- Do not argue, offer opinions, or reveal information obtained through other interviews or research.
- Do not breach confidentiality during the interview.
- At the end of the interview, the interviewer should thank the interviewee(s), remind them of the admonition and walk them to the door.
- Hold a 5-10 minute de-briefing session to discuss the results of the interview immediately after the witness leaves.
- Verify all information obtained through a second or even third source. Uncorroborated testimony is not useful.
- Send a thank-you letter to the interviewee(s), with a reminder if follow-up information was previously requested if appropriate.
- If a recording needs to be transcribed, check with foreperson about acquiring professional transcription services.

## ***G. SUBPOENAS***

Specific procedures for requesting subpoenas will be provided to jurors by County Counsel and the District Attorney during training at the beginning of the Grand Jury term .

A subpoena is a demand by the court that should be used only when it is necessary in order to get copies of official documents or to ensure the attendance of a witness as part of an investigation or complaint. Specific procedures for requesting subpoenas will be provided to jurors after the beginning of the Grand Jury session. Copies of the “Subpoena Request” form are available from the administrative assistant. The foreperson should be advised of the need of the subpoena. Any member of the jury can complete the request form. The completed form is then submitted to the District Attorney’s office. This office actually produces the subpoena; it can then be picked up and served by a Grand Juror.

## VII. INVESTIGATIVE REPORTS\*

### A. REPORT FORMAT

The following is a description of standard report sections. Because of the variety of issues that reports deal with, the report writers should use *only* those sections that are appropriate. However, jurors should remember that all investigative reports will be compiled into the Final Report at the end of the year. In order to have a uniform format throughout the document, report writers should keep the format and style of reports as consistent as possible.

1. **Title/ Subtitle** - In a short sentence or phrase, summarizes the most important feature of the case to stimulate interest. That feature might be:
  - The main finding. For example, “RESTRAINING ORDERS: Paper Thin Protection.”
  - The main recommendation. For example, “ANIMAL SHELTER NEEDS HELP.”
  - The main method used to conduct the investigation of the case. For example, “COMPARING TRUSTEES’ TRAVEL, MEAL AND ENTERTAINMENT EXPENSES IN FOUR SCHOOL DISTRICTS.”
  - The main emphasis of the case. For example, “AGING OUT: The Future of Foster Children.”
  - The scope of an audit. For example, “A REVIEW OF THE SMITHSON UNIFIED SCHOOL DISTRICT'S PROCUREMENT PRACTICES.”
  - The name of the agency or organization investigated. For example, “OFFICE OF THE HAMILTON COUNTY SUPERINTENDENT OF SCHOOLS.”
2. **Summary (optional)** – Typically used in longer reports and is intended to provide a short summary of the investigation. Busy readers will probably use this section to decide whether to continue reading further. Limit to 150 – 200 words if possible. Report recommendations

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\* The following guidelines are recommendations developed by previous San Luis Obispo County Grand Juries in part using material from the California Grand Jurors’ Association. Except as governed by state statute, the following procedures are *optional* and may be changed. Each new Grand Jury decides how it will meet its statutory and legal obligations in conducting investigations and producing reports.

should be included in the summary, but the summary should not be sent to agencies for fact check.

3. **Introduction/Purpose** – Describes the primary issues addressed in the report. It can also discuss the purpose of the investigation and why the issues need to be addressed.
4. **Origin** - Describes how the need for the case came to the grand jury's attention (e.g., own initiative, a complaint/suggestion from a citizen, public official, or someone else). The section should not include confidential or secret material.
5. **Authority (optional)** –Lists the Penal Code sections that authorize and/or mandate the investigation
6. **Method/Procedure** - Details the important steps taken as part of the investigation. The section should list all document reviews, interviews, facility tours and other actions taken by jurors to gather information.
7. **Background/History (optional)** – Provides a historical background for the primary issues discussed in the report.
8. **Narrative** - Gives a detailed description of the activities, observations and facts. The narrative should relate directly to the conclusions and findings.
9. **Conclusions** – Provides a summary of the activities, observations and facts detailed in the Narrative section. This section should lead directly into the findings.
10. **Findings** – A list (numbered) of objective, nonjudgmental statements (usually one sentence) indisputably inferred from one or more facts contained in the report.
11. **Recommendations** - The Grand Jury's advice or counsel, based on findings, for change to procedures, manuals, records, accounts and methods. The Grand Jury is not to make recommendations about policy or legislation. Recommendations should be numbered and include the specific supporting findings
12. **Commendations** – The writer may propose a commendation if that seems appropriate.
13. **Required Responses** – Lists the responder(s) for each of the recommendations. The entry for each responder should identify the applicable recommendation(s). If a department or section of a governmental agency is required to respond, its governing body should also be listed as a responder. For example, if the County Public Health Department is required to respond, the Board of Supervisors should also be required to respond. . Informational reports shall state that “No Responses are required.”

14. **Appendices, Attachments, Bibliography, Glossary & Suggested Reading** - Optional sections that may be used to provide the reader with any additional information that could clarify or provide additional detail for issues discussed in the report.

## ***B. EDIT & REVIEW PROCESS***

Investigative reports are the only way the Grand Jury communicates the results of its investigative work to the public. These reports, while written by one or two jurors, represent the viewpoint of the entire Jury. Each committee should coordinate the development of its reports with the Grand Jury. The following process is a suggested method and committees may vary the sequence of these steps. The committee chair should regularly inform the full Grand Jury as to the status of committee reports.

- a) Once the investigation is completed, the subcommittee assigns a primary writer. The writer, working with the investigative subcommittee, prepares an outline or concept document that describes the focus of the report as well as the preliminary Findings and Recommendations (if any). The committee reviews this information and provides input and direction for an initial draft report.
- b) Development of the report proceeds through committee discussion, facilitated by email, that focuses on content and organization. This effort is followed by a focus on format, grammar, word choice and punctuation in refined drafts. Alterations to the drafts are at the discretion of the primary writer, subject to committee approval. All report drafts should be double spaced, have line numbers and version identification.
- c) The modified draft report, with preliminary approval by the committee, is given the foreperson and to an independent reader selected by the foreperson or his/her designee. This reader should be a juror not on the committee. The independent reader reviews the document for logic, clarity, documentation and readability. If the independent reader suggests substantial revisions, those suggestions should be forwarded to both the committee and the foreperson. The primary writer then reviews the reader's comments and incorporates them into the report as appropriate. If the comments are substantial, the primary writer should consider submitting the document to the reader for a second review.
- d) The report is then submitted to the foreperson who checks for adequate support for the findings and consistency between the findings and recommendations.

- e) The report, modified to reflect the input of the foreperson, is submitted to the syntax committee and then brought back to the committee for final approval and recommendation to refer it to the entire Grand Jury for approval. Except as approved by the foreperson, reports should be shared electronically with all members of the Grand Jury one week in advance of the vote.
- f) The jury reviews the report and either:
- Votes to accept the report.
  - Votes to accept the report with minor changes.
  - Refers it back to committee with general direction as to what changes are required.
  - Votes to reject the report and terminate the investigation.
- g) If the report is accepted, it is sent to County Counsel for legal review. A formal transmittal letter is attached to the report requesting Counsel review (Appendix D-1). The primary writer should include Counsel's comments as appropriate. There is no requirement to address these comments, but they should be given serious consideration.
- h) While not required, it is generally a good idea to check the findings and the narrative for factual accuracy. This can be accomplished in one of the two ways – in writing or with a meeting.
- If in writing, the report, excluding Summary, Conclusions, and Recommendations, is hand delivered in an envelope marked “*Personal and Confidential*” to the head of the agencies that are the primary subjects of the report. (The primary writer and the committee chair are responsible for determining the names and addresses of those involved in the fact check.) Two copies of a formal transmittal letter (Appendix D-2) - should be attached to the report. One of the copies is signed by the person accepting the report and returned to the jury files. After five -business days, -the agency head is contacted and arrangements made for a juror to personally pick up the report and comments.
  - If by meeting, the persons described in the previous bullet are invited to meet with the jury to comment on the factual accuracy of the report. The invitation should include in broad terms the focus of the report, the fact that the meeting is not required and that more detail on the report will be made available after the meeting is scheduled. What portion of the report is made available is at the discretion of the Jury. A sample email requesting the meeting is attached as Appendix D-2b.

- i) The report, with a transmittal letter (Appendix D-3), is sent to the Presiding Judge for review. The primary writer includes the judge's comments as appropriate. There is no requirement to address these comments, but they should be given serious consideration.
- j) Two working days prior to the release of the report, a copy is sent to the directors or department heads of the agencies that are the primary subjects of the report (Appendix D4). The primary writer is responsible for providing the names and addresses of those who should receive these advance copies.
- k) If courtesy copies of the report are to be sent after publication, the primary writer should provide a separate list of names and addresses to the foreperson.

*Note: The following steps are only required if the report is to be released prior to the final report.*

- l) The primary writer formats the report for release (line numbers removed and line spacing set to 1.5) and develops a press release (Appendix C-3). When the documents are ready, the foreperson schedules a date for the release.
- m) The report is sent to the Superior Court's Webmaster with instruction to post them on the morning of the release day.
- n) On the release date, the administrative assistant emails copies of the report and press release to the media and governmental agencies.

## **C. MANAGING REPORT REVISIONS**

As a report progresses from initial draft to final publication, many versions of the document will be created, reviewed, modified and discarded. It is important that anyone reviewing the report is able to distinguish between the different versions for both electronic and printed formats.

One way to accomplish this is to assign a unique name to the document file for each version created, and to have a unique version identifier appear on each page of the printed report. As an example, if a primary writer is developing a report on the County Jail and creates a new version on May 12, 2008, the unique file name for this version could be "County Jail 5-12-08.doc." For each subsequent

version, the first part of the file name would remain the same but the date portion would change to reflect the new version's date. If multiple versions are created on the same day, the writer could add letters (e.g., County Jail 5-12-08 B.doc) to identify each version. In addition, the writer should place the version date in the report header (the page layout for the document should be setup to have this header repeated on every page).

The example below shows the first page of the May 12, 2008, draft version of the County Jail report:

	Version Date: 5/12/08
1	<b>SAN LUIS OBISPO COUNTY JAIL</b>
2	
3	
4	<b>AUTHORITY</b>
5	
6	California Penal Code §919(b) States that "The Grand Jury shall inquire into the condition and
7	management of the public prisons within the county".
8	

## **VIII. FINAL REPORTS**

### ***A. CONTENT AND FORMAT***

The law requires that every Grand Jury submit to the Presiding Judge a final report of its findings and recommendations for review no later than the end of its term. Investigative reports may be issued at any time during a Grand Jury's term. All reports must comply with statutory requirements. (Sections B & C below.)

The final report of a Grand Jury refers to the year-end compilation of reports completed during its term. The year-end final report may contain reports issued earlier in the year, responses from agencies or organizations involved, and Grand Jury addendums when and if considered important for clarification.

Although most of the work is undertaken by committees, each juror should have sufficient knowledge of the material covered in the committee reports to vote intelligently on the recommendations presented for inclusion in the final report. Each report requires twelve votes for approval.

The year-end final report is usually a bound document of all the reports prepared by that Grand Jury and includes a Foreperson's Report as an introduction. The Grand Jury may choose to include: a table of contents

- an introductory letter (signed by all jurors)
- authorities for inquiries and responses
- reports
- responses from identified agencies and any Grand Jury addenda
- photos, graphs, charts, maps and appendices

The county clerk/recorder maintains a complete archive of past grand jury final reports.



## ***B. STATUTORY REQUIREMENTS FOR FINAL REPORTS***

The Grand Jury's reports contain its findings and recommendations pertaining to county government, city governments, joint power agencies, or any other appropriate subject (PC§925 et seq. & §933 et seq.).

All findings identified in a final report shall be accompanied by recommendations for their resolution, including financial when applicable. (PC§916)

## ***C. STATUTORY REQUIREMENTS FOR SUBMITTING AND FILING REPORTS (PC§933)***

Individual final reports on any appropriate subject may be submitted to the Presiding Judge at any time during the fiscal year. The San Luis Obispo County Grand Jury's final report must be submitted no later than the end of its term (June 30<sup>th</sup>).

## **IX. REPORT RESPONSES AND MEDIA COORDINATION**

### ***A. RESPONSES TO GRAND JURY REPORTS***

The power of the Grand Jury rests in its final report(s). The Grand Jury has no enforcement powers. As a former Presiding Judge stated, *“You, the Grand Jury, can only shed a bright light on the issue.”*

The law (PC§933) requires the governing body and director of each agency affected by a final report to respond to the Presiding Judge regarding the report’s findings and recommendations applicable to that agency.

Each succeeding Grand Jury has an obligation to ensure that the appropriate governing bodies and agency directors respond to the findings and recommendations of the previous Grand Jury’s final report. The final report should include a table summarizing the recommendations made in the previous year’s final report, and the responses received for each recommendation..

### ***B. STATUTORY REQUIREMENTS FOR RESPONSES (PC§933C)***

Every elected county officer or head of agency within the Grand Jury’s authority shall respond to the Presiding Judge of the Superior Court within sixty (60) days of submission of a final report on the findings and recommendations made on matters under the control or supervision of the county officer or the agency or agencies which that officer or agency head supervises or controls. When the elected county officer or agency head submits such comments, an information copy shall be sent to the Board of Supervisors.

Within ninety (90) days of submission of a report on the operations of a public agency subject to Grand Jury reviewing authority, the governing body of the agency shall respond to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of that governing body.

All responses shall be filed with the county clerk and with the clerk of the public agency concerned. One copy of each response shall be placed on file with the appropriate final report by the current Grand Jury, to be maintained for a minimum of five years.

Responses to the recommendations of the previous Grand Jury may be published as an addendum to the final report, at the discretion of the current Grand Jury.

### ***C. INTERACTING WITH THE MEDIA***

For the media, anything of interest is newsworthy, but for the Grand Jury confidentiality is paramount. These two interests may conflict. Jurors should refer all media inquiries relating to reports or active investigations to the foreperson.

Points to remember:

- The only person who can officially speak for the Grand Jury is the foreperson (or a juror specifically designated by the foreperson with the concurrence of the Grand Jury).
- Rumors of an investigation may generate telephone inquiries. Jurors should refer such calls to the foreperson, making no comment on the inquiry to either confirm or deny.

## **X. TRACKING RECOMMENDATIONS FROM PREVIOUS GRAND JURIES**

The reports prepared by previous grand juries are a useful source of information. A cumulative (2002-date) index by topic of all final reports can be found in Appendix G. Succeeding grand juries should update this index periodically.

## **XI. LEGAL SUPPORT**

As part of an investigation, the Grand Jury may require professional legal advice. This advice is usually provided by County Counsel. If County Counsel cannot respond (due to conflicts of interest, excessive workload, etc.) the Grand jury can also request assistance from the Presiding Judge and/or District Attorney. These legal advisors typically do not attend Grand Jury sessions unless their presence is requested. The foreperson is the conduit for legal counsel to the Grand Jury.

The Grand Jury may request authority of the Presiding Judge or the California Attorney General to employ special counsel or a special investigator. The services of such special counsel and special investigators may be charged to the county. (PC§936, PC§936.5, & PC§936.7)

If the jury feels that a problem with a complainant may arise, this should be discussed at the general session..

## XII. CONFLICT OF INTEREST

Conflict of interest laws are based on the principle that government officials owe paramount loyalty to the public interest. Personal or financial considerations on the part of government officials should not enter the decision-making process.

A grand juror should not vote on, or attempt to influence, matters in which the juror has a personal or economic interest, or the appearance of such an interest. If a potential conflict exists, a juror should excuse himself or herself from the room during discussion of that particular matter, and the minutes should reflect this. Examples of a personal conflict would be when a major figure in a complaint or investigation is a personal friend or relative of the juror, or when the juror has a bias regarding a complaint or investigation because of a previous personal experience.

If a juror believes that a potential conflict of interest may exist, but is not sure, that juror is obligated to bring the potential conflict to the attention of the full Grand Jury. The Grand Jury, as a body, may then discuss the potential conflict and collectively determine an appropriate course of action.

Each grand juror is required to fill out Form 700 (Statement of Economic Interests) twice, shortly after being sworn in and when their term of office as a juror is over. This is required by the Political Reform Act of 1974 (Government Code Section 87200 et.seq.) and enforced by the Fair Political Practices Commission of the State of California.

*Conflicts of Interest*, a book published in 1989 by the Office of the California Attorney General, contains useful information on this subject. This book is in the Grand Jury library.

### **XIII. PROTOCOL FOR JUROR MISCONDUCT**

The San Luis Obispo County Grand Jury represents the residents of the county. The jurors therefore are expected to conduct themselves in a legal, ethical, courteous and professional manner. Each juror is unique and brings to the group a personal perspective, style, background, experience and opinion. It is in this context that jurors must make every effort to respect these differences and help to assure an environment conducive to constructive discussions.

When a juror's conduct (i.e., fighting, threatening a juror or the Grand Jury, sexual harassment, inappropriate physical contact, abusive language or offensive sexual, race-related or religious comments) becomes disruptive and offensive to any juror, an immediate response becomes necessary. Such instances may be grounds for dismissal and require immediate action by the foreperson. She/he shall confirm the allegation and interview the parties involved. The foreperson may bring the matter before the Grand Jury for deliberation and a vote, or he/she may take the matter directly to the Presiding Judge. If the latter option is followed and the juror is dismissed, the foreperson shall inform the grand jurors within a reasonable time of the action taken. The foreperson may withhold the reason for the dismissal due to confidentiality.

Disruptive or inappropriate behavior that does not require drastic measures may be handled by the foreperson to initiate corrective action. The foreperson may have a private meeting with the juror in question to bring attention to the inappropriate behavior. If the juror takes responsibility for his/her behavior and resolves to amend it, no additional punitive action may be necessary.